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DECISION



**THE COMPTROLLER
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

**GENERAL
ATTENTION**

FILE: B-190131

DATE: November 18, 1977

MATTER OF: Midwest Specialties--Reconsideration

DIGEST:

Prior dismissal of protest as untimely filed is affirmed where basis for protest was apparent more than 10 working days prior to filing of protest.

Midwest Specialties (Midwest) requests reconsideration of our decision in Midwest Specialties, B-190131, September 26, 1977, 77-2 CPD 228.

On September 14, 1977, Midwest protested to this Office the cancellation on August 15 and resolicitation on August 19 of a requirement for side and roof panels issued by the United States Army Troop Support and Aviation Materiel Readiness Command. The protested events occurred after the opening of bids and expiration of the acceptance period on the initial solicitation. Midwest was apprised of the cancellation and resolicitation by letter dated August 15, 1977. Bids on the resolicitation were opened on September 8, 1977. Midwest was the second low bidder on both solicitations. Midwest contends, however, that the low bid under the first solicitation should have been withdrawn as it contained a mistake.

In our prior decision, we held Midwest's protest untimely because the basis for the protest, the cancellation and resolicitation of the requirement, was known to Midwest more than 10 days prior to September 14, 1977, the date of Midwest's protest to this Office.

Midwest contends here, as in its initial protest, that the low bidder on both solicitations, USONA, was accorded preferential treatment by being permitted to raise its price on the resolicitation to correct what Midwest asserts was an apparent mistake in USONA's bid on the first solicitation. Midwest states that this fact was

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not apparent until the bids on the resolicitation were opened on September 8, 1977, fewer than 10 working days prior to the filing of its protest.

We do not agree. It was apparent upon notice of the cancellation and resolicitation of this requirement that each bidder, including USONA, would be free to bid whatever it wished on the resolicitation. Midwest's protest properly should have been made at that time.

Accordingly, the request for reconsideration is denied and our prior decision is affirmed.


Deputy Comptroller General
of the United States